

Remarks

Claims 1-4 have been cancelled. Applicant reserves the right to pursue the original claims and other claims in this application and other applications. Claims 5-8 are pending in this application.

Claims 5-8 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Reconsideration is respectfully requested.

The Office Action states on page 2 that “For a method claim to pass the muster, the recited method must somehow apply, involve, use or advance the technological arts.” It is not clear the point being made by the Examiner, as none of the claims currently pending (or those cancelled by this amendment) were directed to a method.

With respect to the claims currently pending which are directed to a system for managing shipping parcels, Applicants submit that the subject matter of these claims is clearly within the boundaries set forth by 35 U.S.C. §101. As noted in MPEP, 2106 (IV)(A), 35 U.S.C. 101 defines four categories of inventions that Congress deemed to be the appropriate subject matter of a patent; namely, processes, machines, manufactures and compositions of matter. A machine is “a concrete thing, consisting of parts or of certain device and combinations of devices.” *Burr v. Duryee*, 68 U.S. (1 Wall.) 531, 570 (1863). If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *In re Lowry*, 32 F.3d 1579, 1583, 32 USPQ2d 1031, 1034-1035, (Fed. Cir. 1994); *In re Warmerdam*, 33 F.3d 1354, 1361-1362; 31 USPQ2d 1754, 1760 (Fed. Cir.1994). The present claims define a useful machine by identifying the physical structure of the machine in terms of it hardware and software combination, and therefore clearly defines a statutory product. Applicants respectfully submit that all claims comply with 35 U.S.C. §101.

On page 1 of the Office Action, under the heading “Response to Arguments,” the Office Acton states that the “Applicant’s arguments with respect to claims 1-8 have been considered but are considered moot in view of the new ground(s) of rejection.” Although the alleged rejection

under 35 U.S.C. §101 as described above is a new rejection, the Office Action on page 2 simply repeats the same rejection stated in the Office Action dated May 7, 2004. Specifically, the Office Action repeats that claims 5-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Barns-Slavin et al. (U.S. Patent No. 5,995,950) in view of Barni et al. (U.S. Patent No. 6,064,981). A response to the Office Action dated May 7, 2004, was timely mailed on August 5, 2004 (received by the USPTO on Aug. 9, 2004). The present Office Action does not address in any manner the Applicants' previous response filed on Aug. 9, 2004. Applicants again traverse this rejection, and respectfully request that the response as filed on Aug. 9, 2004, reproduced below for the Examiner's convenience, be properly considered.

The present invention is directed to a system for managing the shipping of parcels that includes a planning system, for providing a rated route, and a shipping database, including a set of load planning tables, for providing a stored rated route for shipping the parcel. The load planning tables includes a group table, a load table, a stop table, a shipment header table and a cost table. The group table stores group identifiers used to identify a group of one or more parcels. The load table stores records of attributes associated with a load, which is in turn associated with a group. Each record in the load table has a group identifier field and a load identifier field. The stop table stores records of attributes associated with a stop. Each record in the stop table has a group identifier field to associate it with a group, a load identifier field to associate it with a load, a stop identifier field, and a drop bill number field. The shipment header table stores records of attributes associated with a shipment. Each record in the shipment header table has a group identifier field, a load identifier field, a bill number field that serves as a shipment identifier and optionally relates the record to a record in the stop table via the drop bill number field in records of the stop table, an origin identifier field, and a destination identifier field. The cost table stores records of attributes associated with a component cost of a load. Each record of the cost table has a group identifier field, a load identifier field, a field indicating a cost type, and a field indicating a cost amount.

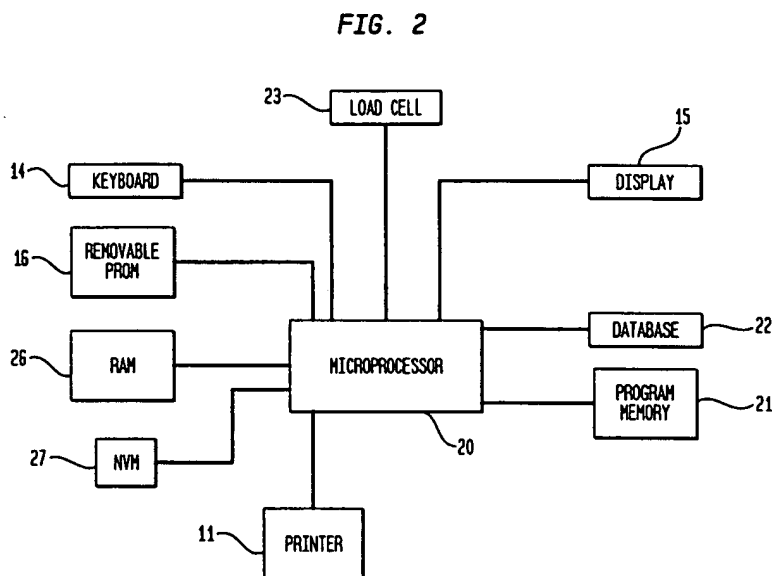
In view of the above, claim 5 is directed to a system for managing shipping parcels that comprises "a planning system, responsive to requests to plan shipping for a parcel . . . for providing a rated route; a shipping database . . . for providing a stored rated route for shipping the

parcel, the shipping database including a set of load planning tables, the set of load planning tables comprising a group table, for storing group identifiers, each group identifier used to identify a group of one or more parcels; a load table, for storing records of attributes associated with a load, which is in turn associated with a group, each record having a group identifier field and a load identifier field; a stop table, for storing records of attributes associated with a stop, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a stop identifier field, and a drop bill number field; a shipment header table, for storing records of attributes associated with a shipment, which is in turn optionally associated with a stop, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a bill number field that serves as a shipment identifier and optionally relates the record to a record in the stop table via the drop bill number field in records of the stop table, an origin identifier field, and a destination identifier field; and a cost table, for storing records of attributes associated with a component cost of a load, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a field indicating a cost type, and a field indicating a cost amount, wherein the set of load planning tables applies business rules to a consignee party, a shipper party and to a third party, such that a route priority table is used to determine a time of arrival, a party responsible for payment and a destination location and applies the business rules to events and subevents to determine delivery parameters.”

Barns-Slavin et al. is directed to a carrier management system for determining discounted shipping charges for groups of parcels sent to a single consignee. In Barns-Slavin, a microcomputer 21 includes a non-volatile program memory 21 for storing the program for operation of the system and a non-volatile database memory 22 for storing rate data for all of the carriers and classes of service for which the system has the capability to determine shipping charges. A second portion of memory 22 stores predetermined requirements which must be met by a group of parcels for the group to receive a group discount. (Col. 3, lines 30-44).

The Office Action contends that Fig. 2 of Barns-Slavin, Col. 2, lines 20-48 and Col. 3, lines 37-64, teaches a set of load planning tables including a group table, a load table, a stop table and a shipment header table. Applicants respectfully disagree.

Fig. 2 of Barns-Slavin is reproduced below.



The text from Col. 2, lines 20-48, of Barns-Slavin is reproduced below.

The above object is achieved and the disadvantages of the prior art are overcome in accordance with the subject invention by means of a carrier management system which includes an input for input of parcel weight; a second input for input of information, the information including: shipment data for selecting a class of service from a group of classes of service provided by the selected carrier, a parcel identification number, and operator input signals; a first memory for storing rate data; a second memory for storing predetermined requirements for a group of parcels eligible for a group discount; and output for outputting prompts to an operator; and a data processor. The data processor responds to the weight, the shipment data and a first operator input signal to append a suffix to the parcel identification number and to store the weight and at least a portion of the shipment data with the parcel identification number for a first parcel; and for succeeding parcels increments the suffix and stores the parcel identification number and the incremented suffix and the weight. The data processor also responds to a second operator input signal to determine if a group of parcels consisting of the first parcel and the succeeding parcels conforms to the predetermined requirements and, if so, determines discounted shipping costs for the group in accordance with the stored weights and stored portion

of the shipping data and the stored rates; and if the group does not conform to the requirements controls the output means to output a prompt to advise that the group does not qualify for the discount.

The text from Col. 3, lines 37-64, of Barns-Slavin is reproduced below.

In accordance with the subject invention the rate data stored in memory 22 includes both single piece rates and group discount rates, and preferably may include special, alternative single piece rates such as the rate structure marketed by UPS under the trade name "Groundsaver". A second portion of memory 22 (or equivalently a second memory) stores the predetermined requirements which must be met by a group for the group to receive a group discount. Memory 22 is preferably replaceable PROM's, a floppy disk, or other replaceable memory so that rate data may be updated from time to time. Alternatively rate data may be updated by down-loading to writeable memory in a conventional manner. Load cell 23, which supports platform 13, inputs the weight for a parcel to be shipped which has been placed on platform 13 to microprocessor 20 in a conventional manner which need not be discussed further here for an understanding of the subject invention. Keyboard 14 is provided for input of information including shipment data for selecting a class of service provided by a selected carrier, a parcel identification number, and operator input signals. (Those skilled in the art will recognize that a particular key stroke on keyboard 14 may represent different operator input signals depending upon the state of the system. For example, "Y" and "N" represent different operator inputs depending upon the prompt displayed on display 15.) Display 15 is provided to output various information including charges as computed and prompts to an operator to elicit necessary inputs.

Although Fig. 2 of Barns-Slavin shows a database 22 and the description references a parcel identification number and rate data stored in the memory 22, there is no disclosure, teaching or suggestion anywhere in Barns-Slavin of "a load table, for storing records of attributes associated with a load, which is in turn associated with a group, each record having a group identifier field and a load identifier field" as is recited in claim 5. There is also no disclosure, teaching or suggestion in Barns-Slavin of "a stop table, for storing records of attributes associated with a stop, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a stop identifier field, and a drop bill number field" as is recited in claim 5. There is also no disclosure, teaching or suggestion in Barns-Slavin of "a shipment header table, for storing records of attributes associated with a shipment, which is in turn optionally associated with a stop, which is in turn

associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a bill number field that serves as a shipment identifier and optionally relates the record to a record in the stop table via the drop bill number field in records of the stop table, an origin identifier field, and a destination identifier field” as is recited in claim 5. The Office Action has not provided any support for where each of these features is specifically disclosed in Barns-Slavin. “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Applicants respectfully request the Examiner to clarify where each of the claim limitations is taught or suggested by Barns-Slavin.

As noted by the Office Action, there is also no disclosure, teaching or suggestion in Barns-Slavin of “a cost table, for storing records of attributes associated with a component cost of a load, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a field indicating a cost type, and a field indicating a cost amount” as is recited in claim 5, nor is there any disclosure, teaching or suggestion in Barns-Slavin of a set of load planning tables that “applies business rules to a consignee party, a shipper party and to a third party, such that a route priority table is used to determine a time of arrival, a party responsible for payment and a destination location and applies the business rules to events and subevents to determine delivery parameters” as is recited in claim 5. To overcome this deficiency, the Office Action relies on the reference to Barni et al.

Barni is directed to an on-line system for negotiation of cargo rates between customers and carriers. Customers that desire to ship cargo or freight may obtain rate information and discounts available from a plurality of different carriers or freight forwarders, without having to expose its identity to obtain a given rate quote. A customer may bid on a given shipping lane of interest in an anonymous manner, and this bid may be accepted by a carrier or freight forwarder that has excess capacity for the lane. In a like manner, carriers may post bids for servicing a given shipping lane that may then be accepted, in whole or in part, by a given customer. Once accepted, the server confirms the agreement by e-mail and issue appropriate confirmation agreements electronically. (Col. 7, lines 55-67).

In Barni, when a carrier desires to create a seller bid, the carrier selects a shipping lane and enters information concerning the ship date, container type, maximum number of containers that are available, bid expiration date and time, freight-to-port date and time, price and any additional costs. The customer can then view the seller bids auction block (as illustrated in Fig. 11) to view the current bids and can accept a seller bid by highlighting a given row of the table and taking a given action. (Col. 7, lines 11-54).

Thus, in Barni, the customer has the option of accepting a bid or not based on the information provided by the carrier. There is no disclosure, teaching or suggestion in Barni et al. of a cost table associated with a load which is in turn associated with a group. Further more, there is no disclosure, teaching or suggestion in Barni et al. of a set of load planning tables applying business rules to a consignee party, a shipper party and a third party such that a route priority table is used to determine a time of arrival, a party responsible for payment and a destination location and applies the business rules to event and subevents to determine delivery parameters. Instead, in Barni et al., the customer can either accept or not accept a bid by a carrier. This is not the same as the load planning tables applying business rules such that a route priority table is used to determine delivery parameters.

There is no disclosure, teaching or suggestion in Barns-Slavin et al. or in Barni et al., either alone or in combination, of "a group table, for storing group identifiers, each group identifier used to identify a group of one or more parcels; a load table, for storing records of attributes associated with a load, which is in turn associated with a group, each record having a group identifier field and a load identifier field; a stop table, for storing records of attributes associated with a stop, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a stop identifier field, and a drop bill number field; a shipment header table, for storing records of attributes associated with a shipment, which is in turn optionally associated with a stop, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a bill number field that serves as a shipment identifier and optionally relates the record to a record in the stop table via the drop bill number field in records of the stop table, an origin identifier field, and a destination identifier field; and a cost table, for storing

records of attributes associated with a component cost of a load, which is in turn associated with a load, which is in turn associated with a group, each record having a group identifier field, a load identifier field, a field indicating a cost type, and a field indicating a cost amount, wherein the set of load planning tables applies business rules to a consignee party, a shipper party and to a third party, such that a route priority table is used to determine a time of arrival, a party responsible for payment and a destination location and applies the business rules to events and subevents to determine delivery parameters” as is recited in claim 5.

For at least the above reasons, Applicants respectfully submit that claim 5 is allowable over the prior art of record. Claims 6-8, dependent upon claim 5, are allowable along with claim 5 and on their own merits.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims of this case are in a condition for allowance and favorable action thereon is requested.

Respectfully submitted,



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